



19 APR 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBEG, WOESSNER & KLUTH
PO Box 2938
Minneapolis, MN 55402

In re Application of	:	
SHERMAN, David H., et al	:	DECISION ON PETITION TO
U.S. Application No.: 09/988,384	:	REVIVE ABANDONED
Attorney's Docket No.: 600.438WO1	:	APPLICATION UNDER
For: DNA ENCODING METHMYCIN AND	:	37 CFR 1.137(b)
PIKROMYCIN	:	

This decision is issued in response to applicant's "Petition To Revive PCT As To The U.S." filed with respect to international application PCT/US99/14398 on 19 November 2001. Deposit Account No. 19-0742 will be charged the required \$640 petition fee.

BACKGROUND

International application PCT/US99/14398 became abandoned as to the United States under 35 U.S.C. 371(d) at midnight on 26 December 2000 (thirty months after the priority date) for failure to pay the basic national fee.

On 19 November 2001, applicant filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/US99/14398, and the petition to revive international application PCT/US99/14398 considered herein. The petition to revive was filed for the purpose of establishing continuity between the international application and the present continuation application.

DISCUSSION

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "[a]bandonment of the international application was unintentional and the entire delay in filing the U.S. national stage application was also unintentional" is interpreted as the statement required by 37 CFR 1.137(b)(3) that "the entire delay in filing the 35 U.S.C. 371(c) requirements from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this is **not** a correct interpretation of the petition, applicants **must** inform this Office immediately.

The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c). International application PCT/US99/14398 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 09/988,384.

RECEIVED

04/21/2004 CSM00T 00000001 190743 09988384

Sale Ref: 00000001 DAB: 190743 09988384

01 FC:2453

640.00 DA

CONCLUSION

The petition to revive is **GRANTED**.

International application PCT/US99/14398 is hereby revived for purposes of continuity, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 09/988,384.



Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RECEIVED
APR 26 2004
OIPF/JCWS